

TESTIMONY OF SENATOR EUGENE J. McCARTHY
BEFORE THE SENATE COMMITTEE ON ARMED SERVICES
AT THE HEARINGS ON THE NOMINATION OF JOHN A. McCONE
AS DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY
January 18, 1962

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MR. CHAIRMAN:

This Committee is charged with the primary and initial responsibility of acting for the Senate in considering the fitness and the qualifications of a presidential nominee, Mr. John A. McCone, for confirmation by the Senate as Director of the Central Intelligence Agency. The action of the Senate under a constitutionally defined responsibility will, as you the members of this Committee know, depend primarily upon your recommendations.

This is one of the most important confirmations which the Senate is called upon to make. In my opinion, it ranks in importance ahead of most Cabinet confirmations for several reasons: because of the importance of the work of the CIA, the relative freedom of action given the head of the CIA and to his subordinates, and the lack, under existing practice, of any continuing direction or of effective review of CIA activities by the Congress.

I have in the past supported and advocated establishment of a Joint Committee of the Congress to exercise continuing supervision over the activities of the CIA, somewhat in the same manner that the Joint Committee on Atomic Energy operates. If such a committee existed, the choice of the head of the CIA and Senate confirmation would not be so demanding.

There is no regular or normal procedure in existence or in use today by which committees of the Congress are consulted or informed of CIA activities. During a discussion of a proposed Joint Committee on Central Intelligence on the floor of the Senate on April 9, 1956, Senator Mansfield asked, "How many times does CIA request a meeting with the particular subcommittees of the Appropriations Committee and the Armed Services Committee. . . ." Senator Saltonstall, a member of both committees, replied, ". . . at least twice a year that happens in the Armed Services Committee and at least once a year it happens in the Appropriations Committee. I speak from my knowledge during the last year or so. . . ."

Intelligence activities raise special problems and need special attention. In an article in The New York Times Magazine (May 21, 1961), Harry Howe Ransom wrote: "Whatever one's views, the existence of a secret bureaucracy poses special problems in the American system of government. Knowledge is power. Secret knowledge is secret power. A secret apparatus, claiming superior knowledge and operating outside the normal checkreins of American democracy, is a source of invisible government."

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Charles Wilson, as Secretary of Defense, described this danger at a press conference in 1957 with these words: "You see, what I get for my purpose is an agreed-on intelligence estimate. . . . I have to take that, or I would have to bore through an enormous amount of detail myself to try to say that they were wrong or right. . . . I accept what they say. . . ."

Hanson Baldwin, as military commentator for The New York Times, wrote in his column of January 15, 1956: "If war is too important to be left to the generals, it should be clear that intelligence is too important to be left to the unsupervised."

Walter Lippmann, looking at the same problem from a slightly different point of view, wrote soon after the recent change of personnel in the State Department that reform of the CIA should seem easier and more necessary. "For," he said, "the CIA should cease to be what it has been much too often, an original source of American foreign policy. That is what has gotten it into trouble, and that is what needs to be cured."

Mr. Allen Dulles once said: "In intelligence you have to take some things on faith." I acknowledge the truth of this, but also acknowledge and insist that faith is no excuse for lack of knowledge, for failure to seek out facts, or not to be accepted as a convenient device for shunning responsibility.

If Walter Lippman, Harry Ransom, Charles Wilson, and Hanson Baldwin are right, Congress must be concerned since it, along with the President, has responsibility for determining foreign policy.

Mr. Chairman, it is said by some that changes within the administration and within the organization of the CIA itself will so change the role of the head of the CIA that the office will be less significant than it has been in the past. There are some who say that all significant policy decisions relating to the CIA will be made in the White House; others say that the Pentagon will become more important. According to Chalmers M. Roberts, men close to the President point out that "there will be so many checks and balances" on his operation "that there is no need to worry."

If these statements are true, this Committee, in my judgment, should be informed of these contemplated changes.

On the other hand, it has been said that the role of CIA may be expanded and that the CIA will be operated even more secretly in the future than it has been in the past.

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In any case, as Director of CIA, Mr. McCone will take on great responsibilities and acquire great powers which, at least insofar as Congress is concerned, he can exercise with little or no supervision. Under the law, he can withhold "titles, salaries, or numbers of personnel employed by the Agency." He can approve the entry into the United States of certain aliens and of their families, subject to concurrence of the Attorney General and the Commissioner of Immigration and Naturalization. He will have authority to expend funds without "regard to the provision of law and regulations relating to the expenditure of government funds" on vouchers certified by him alone.

These are unusual powers, and powers which Congress traditionally has not yielded easily. But they are, I think, necessarily granted in this case.

A part of CIA's work is the preparation of the national intelligence estimates which are used as important guides in the formulation of foreign and defense policy. CIA is an evaluator as well as a collector of facts. This agency should find and present the facts as they are and interpret them with full objectivity.

The Director of CIA is Chairman of the United States Intelligence Board. Mr. McCone has changed the procedure and asks that the Deputy Director of CIA sit as a member of the Board while McCone presides. Other members of the USIB are General Carroll, representing the Defense Department; the intelligence components of the Army, Navy, and Air Force; representatives of the National Security Agency, the Atomic Energy Commission, the FBI, the Joint Chiefs of Staff, and the State Department.

The head of the CIA briefs the National Security Council at each of its meetings and is always asked to remain for the ensuing discussion. Although the head of CIA is not a member of the NSC, he does remain and participates in the discussions.

Theoretically, the President -- with occasional help from consultants -- controls this powerful, huge, and expensive Central Intelligence Agency. But the President is the nominal head of hundreds of agencies; he cannot be kept fully informed at all times of the activities of CIA. Consequently, very great powers are vested in the Director of Central Intelligence. How these powers have been used and how they are likely to be used are most important questions. Has the CIA in the past carried out actions without constitutional justification, without the authority of statute or of resolution or of treaty commitments? Whether these activities or operations turned out well or badly, whether they in the long run or in the short run advanced or improved the position of the United States is secondary to the basic

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The CIA is credited with having helped to oust Mossadegh from the premiership of Iran in 1953. History has not yet clearly demonstrated that this was the wisest policy. It probably never will, but the question of legality and authority of the CIA in this action is open to question. CIA takes credit for the overthrow of Dr. Arbenz as President of Guatemala in 1954. Objectively considered this was desirable, but again it is difficult to establish any justification in law or treaty or even tradition for this action. *with concurrence of Congress* It was not sanctioned by the UN or by the OAS or by NATO membership, and scarcely comes under the Monroe Doctrine.

The policy decision involved last year in supporting General Phoumi Nosavan's move from Vientiane, helping him equip an army in the south to remove Souvanna Phouma from power rather than join the cabinet as Vice Premier was, insofar as I know, without any sanction excepting that he had declared himself to be positively on our side and Souvanna Phouma was declared neutral.

The U-2 flight raises some questions of prudence, but does not raise, in my judgment, questions of legal or constitutional justification as the others do.

In the case of the invasion of Cuba this year, the basic question of justification would remain even though the invasion had been a success.

Mr. Chairman, the Constitution quite clearly established that the Congress has a part in declaring war. War is seldom declared in the modern world. There are defensive actions and police actions. Nonetheless, the intention of the Constitution still runs to the end that the Congress has part and responsibility in the decisions to enter upon actions to control or to overthrow the governments of other nations.

Congress has acted to give the President authority through the United Nations. It has granted him wide authority under the NATO treaty and somewhat less clearly under the SEATO treaty. The Congress approved the Middle East Resolution in anticipation of the Lebanon action.

I believe that there is need for consultation with Congress by the President or his agent and beyond that of some form of expression of the will of Congress in major decisions relating to war, either hot or cold, when authority is not clearly provided for under existing law or treaty. A Joint Committee may not be the best means, but I know of none better that has been proposed. Consultation with some members selected by the executive branch or consultation with members who are on committees somewhat related to the action or field of action does not, in my judgment, meet the constitutional test. Men chosen by the Congress itself as its

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representatives and spokesmen should participate in these decisions, as would be the case in a cabinet system of government.

I do not expect a Joint Committee to be approved, nor do I see the possibility of developing an alternative method for supervision or control by the Congress in the immediate future. The choice of the head of CIA is, therefore, of great importance.

The man selected to head the CIA should, I believe, understand and appreciate the great powers which are given to him and be aware that, at least in the past, either on its own decision or with executive approval, the CIA has carried on activities which were of questionable constitutionality. He should realize, too, that in the future he may be called ^{upon} or challenged or tempted to conduct similar operations. The director of CIA should be sensitive to the danger of such proceedings.

I hope that this committee will make inquiry as to the awareness and sensitivity of the current nominee with reference to these basic considerations.

A man selected to be the head of CIA should, if possible, be experienced in intelligence work. He should be a good administrator. He should have an adequate understanding and awareness of the problems of foreign policy, of the difficulties and complexities. He should be concerned as to the ethics of the methods and means by which he, his agents, and operators seek their goals, either in the gathering of information or in carrying on what have come to be called "operations." And finally he should be a man who, in my judgment, is self-possessed, restrained, and detached.

What are the qualifications of the nominee with reference to these six general areas of qualifications?

(1) I will not attempt a judgment or recommendation with regard to the question of experience in intelligence, as there are no clear standards that can be applied.

(2) On the record he has had experience with security methods as chairman of the AEC and has been involved in the intelligence activities related to that Commission or at least consulted.

(3) He has the reputation of being a good administrator. This is a reputation held by many who come into government. The Committee can form its own judgment on this point without comment or advice from me. I have noted, however, that the new Chairman of the AEC has announced some changes in policy and administration. [A release from the AEC dated August 11, 1961, headed "Major Changes in Atomic Energy Commission Organization are Announced," stated: "Chairman Glenn T. Seaborg of the Atomic Energy Commission today announced major changes in the organization of the

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operating staff of the Commission. The objectives of the changes are: improving the effectiveness of the organization, shortening the chain of command and communication with field operations, strengthening the role of the Operations Office Managers, and relieving Headquarters program divisions of administrative and supervisory burdens."

4 The question of knowledge of foreign policy is one which can be passed upon only in very general terms and by very subjective standards. I would feel more confident in passing on this appointment if there was a more extensive record of the views of the nominee. He is, according to one columnist, hard boiled; according to the Economist, of molten temper; a tough man, according to Newsweek; hard-driving, according to the Wall Street Journal.

These are not undesirable qualities in the head of the CIA. They are not the only good qualities possessed by the nominee being considered, but these are the qualities that have been especially stressed in newspaper comment. Taken by themselves, they are not enough to qualify a person for this difficult and sensitive office. I might observe that these are essentially the same characteristics attributed to Charles Wilson when he took over as Secretary of Defense some few years ago. I believe they were also attributed to his successor Mr. McElroy. Assuming that both possessed these characteristics, and acknowledging that such characteristics might better qualify a man to be Secretary of Defense than to be head of the CIA, it must be acknowledged that neither of the two men have been marked by history as great Secretaries of Defense.

There are two points in the public record of the nominee which, I think, bear significantly on the question of whether he should be confirmed or not confirmed.

The Director of the CIA should be more interested in finding evidence and passing objective judgment on it than in attempting to polarize opinions or supporting a set position. From the earliest days of the atomic program, there has been controversy on weapons control; much of it unpublished and hidden from public view. The controversy roughly was divided into two positions: on the one side there were those who advocated a more intensive and extensive program, sometimes called the "big bomb" group and advocates of "massive retaliation"; and on the other side the supporters of the "controlled weapons" position.

Mr. McCone has been outspoken in opposition to an unpoliced moratorium on nuclear weapons testing and has publicly issued strong warnings of the danger to the United States if we did not resume testing.

These are views that are held by many. The question I raise is not related to the rightness or wrongness of this point of view, but rather to the point

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of whether, as Chairman of the Atomic Energy Commission, Mr. McCone did attempt to influence opinion in support of his position and as to how he undertook to achieve this objective, if he did.

The anti-moratorium group was restive during the weapons moratorium.

There was information in the press, supposedly gained through leaks from the Atomic Energy Commission which, in the opinion of some, was harmful to our disarmament negotiations at Geneva.

During the last year of the moratorium, there were a number of printed reports, usually from undisclosed sources, which suggested, if they did not positively say, that the Soviets were conducting clandestine tests. It has been reported that President Eisenhower was so upset over leaks occurring during his Administration that he ordered one or more investigations. I assume that the information gathered by these investigations, if they were conducted, is available to the Committee and could be used to determine whether there were leaks and what the source of them was and what bearing they may have had upon policy positions.

The second incident, if it can be called such, bearing upon this question arose in the course of the 1956 campaign when the Democratic candidate for the presidency raised the issue of a moratorium on nuclear testing. This proposition could quite properly be made a campaign issue, and it was. But because the proposal was of such great importance, anyone raising it as an issue or discussing it in a campaign had a special responsibility to present his own views most carefully, and an even greater responsibility not to distort the views of others.

Eventually ten professors at the California Institute of Technology entered the controversy in support of a moratorium. They published a letter, signed it, and identified themselves as members of the faculty of the Institute. These ten professors were:

- (alho stated not speaking for Inst.)*
- Carl D. Anderson, Professor of Physics, California Institute of Technology. Nobel Laureate in Physics, 1934, Member of National Academy of Sciences.
 - Harrison Brown, Professor of Geochemistry, California Institute of Technology, Member of National Academy of Sciences, Formerly Assistant Director of Chemistry, Plutonium Project, Oak Ridge.
 - Robert F. Christy, Professor of Theoretical Physics, CIT, Formerly physicist, Los Alamos.
 - Jesse W.M. DuMonde, Professor of Physics, CIT, Member of National Academy of Sciences. During war Physicist with OSRD, Air Force and Navy.
 - Robert V. Langmuir, Assoc. Professor of Electrical Engineering, CIT, Major Field: High energy accelerators physicist with OSRD during war.
 - Thomas Lauritsen, Professor of Physics, CIT, Physicist with OSRD during war.
 - Chas. R. McKinney, Senior Research Fellow in Geochemistry, CIT, Physicist at Oak Ridge during war. Formerly Chief Engineer of 100 Mev betatron at University of Chicago.

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Matthew Sands, Assoc. Professor of Physics, CIT, Physicist at Los Alamos during war.
John M. Teem, Research Fellow in Physics, CIT.
Robert L. Walker, Assoc. Professor of Physics, CIT, Formerly Physicist at Los Alamos.

I submit a copy of their letter to the Committee for the record.

This question was raised during the hearings held by the Joint Committee on Atomic Energy preliminary to the confirmation of Mr. McCone as a member of the Atomic Energy Commission in 1958. In my opinion, the inquiry was not as thorough as it might have been or, at least, the published reports of the inquiry were somewhat short of satisfactory.

Following the issuance of the statement by the scientists, Mr. McCone wrote a letter dated October 15, 1956, to Dr. Thomas Lauritsen of Caltech which included the following: "Your statement is obviously designed to create fear in the minds of the uninformed that radioactive fallout from H-Bomb tests endangers life. However, as you know, the National Academy of Sciences has issued a report this year completely discounting such danger." Mr. McCone's letter makes reference to "a unilateral decision of the type you recommend might be fatal to our country," and also states with reference to the position of the scientists: "You apparently have been taken in by this propaganda." "This" refers to an earlier use of the word "Soviet" propaganda.

I do not know whether the scientists were taken in by Soviet propaganda or not. In my opinion, one should be extremely certain that such was the case before suggesting it in a letter. The McCone judgment that this was "designed to create fear" was a wholly subjective judgment which would be valid only if the author could read the minds of the authors of the first letter. In their letter, the ten scientists clearly did not advocate "unilateral" moratorium on testing. And finally, his reference to the National Academy of Sciences is one which has been interpreted quite differently by others. The report was generally interpreted as minimizing the danger from fallout. The New York Times story of June 13, 1956, however, headed "Effects of Biological Radiation" interpreted the report quite differently. The story contained this statement: "A committee of outstanding scientists reported today that atomic radiation, no matter how small the dose, harms not only the person receiving it but also all his descendants."

It has been reported that in addition to writing the letter, Mr. McCone, a trustee of Caltech, demanded that the ten scientists be fired. This, in my judgment, if it is true, is a matter of most serious concern. I do not know whether it is true or not. I assume that the Committee can find out what the fact is.

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Certainly members of the academic profession should not face firing for expression of opinion under the conditions under which they were expressed in 1956; nor face firing on the grounds that they had identified themselves with a university or an institute of which they were a part.

The most recent comment on the incident was included in a column of Doris Fleenon in the Washington Evening Star of November 8, 1961, in which she quotes a Senator, without naming him, as saying: "It was very bad. McCone did not have the facts. He said they were speaking for Caltech and they were not. He hated or hesitated to concede that they had a right to speak as citizens."

Mr. Chairman, it is within this general framework of the functions of the CIA, with consideration to the methods and procedures of that agency, and also with consideration of the character and qualifications of the nominee that your Committee must make its decision and recommendations. There are, I think, these basic questions to which your Committee should seek answers:

1. Is the CIA to be reorganized and, if so, in what respects?
2. What bearing would such changes have upon the duties of the head of the CIA and upon the operation of that agency?
3. What are the views of the nominee as to the authority for some of the actions attributed to the Central Intelligence Agency in the field of foreign affairs within recent years?
4. What is the nominee's judgment as to methods which can be justifiably used by the Central Intelligence Agency?
5. What was the extent of the nominee's involvement, if any, in what has been described or reported as "leaks" from the Atomic Energy Commission with reference to the moratorium on nuclear testing?
6. What are the facts with regard to the charge of the nominee's attempt to have the scientists fired at the California Institute of Technology?

Mr. Chairman, I thank you for your courtesy in hearing me today.

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